

Exhibit C

People of the State of New York

V.

Exxon Mobil Corporation

Index No. 452044/2018

**Motion to Dismiss Misconduct Defenses
and Related Discovery Disputes**

June 12, 2019

Presentation of Exxon Mobil Corporation

Selective Enforcement Defense

- I. Government action
- II. Differential treatment from others who are similarly situated
- III. Impermissible motivation, including intent to inhibit exercise of constitutional rights or malicious intent to injure

Kreamer v. Town of Oxford, 96 A.D.3d 1130, 1133 (3d Dep't 2012).

The Attorney General Selectively Targeted ExxonMobil Because of Its Views on Climate Policy

Congress.¹¹ State attorneys general can also subpoena documents, raising the possibility that a single sympathetic state attorney general might have substantial success in bringing key internal documents to light. In addition,

Establishing Accountability for Climate Change Damages: *Lessons from Tobacco Control*

Summary of the Workshop on Climate Accountability,
Public Opinion, and Legal Strategies

Martin Johnson House
Scripps Institution of Oceanography
La Jolla, CA, June 14–15, 2012

CLIMATE
ACCOUNTABILITY
INSTITUTE



Union of Concerned Scientists

Confidential / FOIL Treatment Requested by Exxon Mobil Corp. Pursuant to Pub. Officers Law § 87(2)

EMC 004060482

Equally important was the nearly unanimous agreement on the importance of legal actions, both in wresting potentially useful internal documents from the fossil fuel industry and, more broadly, in maintaining pressure on the industry that could eventually lead to its support for legislative and regulatory responses to global warming. Some participants stated

help with his argument of causation, Pawa will also argue that Exxon and the other defendants distorted the truth. He said that litigation not only allows him to pursue a remedy for some of those most vulnerable to the effects of climate change, but also serves as “a potentially powerful means to change corporate behavior.”

The Attorney General Brought this Lawsuit to Delegitimize ExxonMobil as a Political Actor

From: **Kenny Bruno** <kenny.bruno@verizon.net>

Date: Tue, Jan 5, 2016 at 4:42 PM

Subject: Exxon meeting DRAFT Agenda and logistics

To: **Lee Wasserman** <lwasserman@rffund.org>, **Bill McKibben** <bill.mckibben@gmail.com>, **Jamie Henn** <jamie@350.org>, **Rob Weissman** <rweissman@citizen.org>, **Bill Lipton** <blipton@workingfamilies.org>, **Dan Cantor** <dcantor@workingfamilies.org>, **John Passacantando** <j.passacantando@gmail.com>, **Kert Davies** <kertmail@gmail.com>, **won@ef.org**, **SEubanks@bordaslaw.com**, **ikrarup@vkrf.org**, **mp@pawalaw.com**, **bcampbell@clf.org**, **Stephen Kretzmann** <steve@priceofoil.org>, **Carroll Muffett** <cmuffett@ciel.org>, **Naomi Ages** <naomi.ages@greenpeace.org>

mp@pawalaw.com

Dear All,
If you are receiving this message then we believe you are attending the meeting this coming Friday Jan 8 regarding Exxon.
The meeting will take place at:
Rockefeller Family Fund
475 Riverside Dr entrance on Claremont @ 120th St. in Upper Manhattan, 1 Train to 116th St. from Penn Station
Please confirm whether you are attending in person (preferred, of course!) or remotely. If remotely see instructions below.
Here is a DRAFT Agenda, your suggestions are welcome.

DRAFT Agenda

Exxon: Revelations & Opportunities

Friday January 8 11 AM - 3 PM

475 Riverside Dr @ 120th ST Manhattan

10:05: Arrival and Coffee

11:00 - 11:15 Introductions and purpose of the meeting (Lee)

11:15-12:00 - Goals of an Exxon campaign

What are our common goals? Examples include:

- To establish in public's mind that Exxon is a corrupt institution that has pushed humanity (and all creation) toward climate chaos and grave harm.
- To delegitimize them as a political actor
- To force officials to disassociate themselves from Exxon, their money, and their historic opposition to climate progress, for example by refusing campaign donations, refusing to take meetings, calling for a price on carbon, etc.
- To call into question climate advantages of fracking, compared to coal.
- To drive divestment from Exxon.
- To drive Exxon & climate into center of 2016 election cycle.

Other goals?

12:00 - 1:00 Legal Status and prospects

What are the main avenues for legal actions & related campaigns?

-AGs

-DOJ

-Torts

-International

-Other

Dear All,

If you are receiving this message then we believe you are attending the meeting this coming Friday Jan 8 regarding Exxon.

The meeting will take place at:

Rockefeller Family Fund

11:15-12:00 - Goals of an Exxon campaign

What are our common goals? Examples include:

- To establish in public's mind that Exxon is a corrupt institution that has pushed humanity (and all creation) toward climate chaos and grave harm.
- To delegitimize them as a political actor
- To force officials to disassociate themselves from Exxon, their money, and their historic opposition to climate progress, for example by refusing campaign donations, refusing to take meetings, calling for a price on carbon, etc.
- To call into question climate advantages of fracking, compared to coal.
- To drive divestment from Exxon.
- To drive Exxon & climate into center of 2016 election cycle.

12:00 - 1:00 Legal Status and prospects

What are the main avenues for legal actions & related campaigns?

-AGs

-DOJ

-Torts

-International

-Other

Which of these has the best prospects for successful action? For getting discovery? For creating scandal? Shortest time line? Do we know which offices may already be considering action and how we can best engage to convince them to proceed?

The Attorney General Singled Out ExxonMobil for Disagreeing About Climate Policy



"We have heard the scientists. We know what's happening to the planet. There is no dispute but there is confusion, and confusion sowed by those with an interest in profiting from the confusion and creating misperceptions in the eyes of the American public that really need to be cleared up."

"...we announced that we had served a subpoena on ExxonMobil..."

"So today, in the face of the gridlock in Washington, we are assembling a group of state actors to send the message that we are prepared to step into this breach."

"We know that in Washington there are good people who want to do the right thing on climate change but everyone from President Obama on down is under a relentless assault from well-funded, highly aggressive and morally vacant forces that are trying to block every step by the federal government to take meaningful action. So today, we're sending a message that, at least some of us – actually a lot of us – in state government are prepared to step into this battle with an unprecedented level of commitment and coordination."

Official Misconduct Defense

- I. Public officials' use of improper methods, including prejudicial public statements about pending cases
- II. To obtain an illegitimate result

United States v. Bowen, 799 F.3d 336, 354 (5th Cir. 2015);
Wright v. United States, 732 F.2d 1048, 1056 (2d Cir. 1984).

The Attorney General Colluded with the Rockefeller Family Fund and Mathew Pawa to Defame ExxonMobil

Kline, Scot

From: Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov>
Sent: Wednesday, March 30, 2016 9:01 PM
To: Matt Pawa
Cc: Kline, Scot
Subject: Re: Wall st journal

My ask is if you speak to the reporter, to not confirm that you attended or otherwise discuss the event.

Sent from my iPhone

> On Mar 30, 2016, at 6:31 PM, Matt Pawa <mp@pawalaw.com> wrote:

>
> Lem and Scot: a WSJ reporter wants to talk to me. I may not even talk to her at all but if I do I obviously will have no comment on anything discussed at the meeting. What should I say if she asks if I attended? No comment? Let me know.

>

> MP

>

> Matt Pawa

> Pawa Law Group, P.C.

> 1280 Centre Street, Suite 230

> Newton Centre, MA 02459

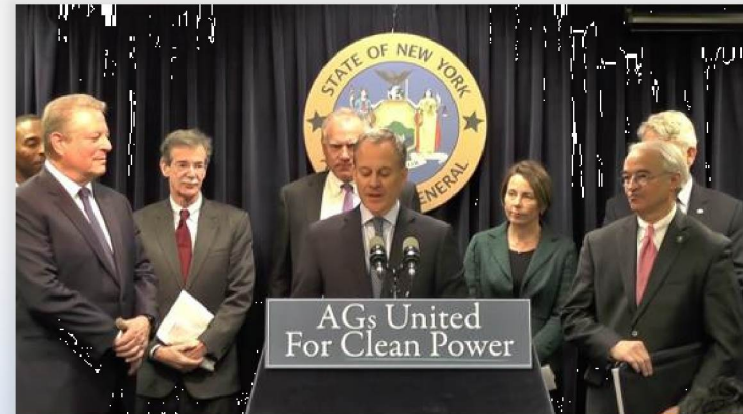
> (617) 642-9550

> (617) 642-9551 facsimile

From: Lemuel Srolovic <Lemuel.Srolovic@ag.ny.gov>
Sent: Wednesday, March 30, 2016 9:01 PM
To: Matt Pawa
Cc: Kline, Scot
Subject: Re: Wall st journal

My ask is if you speak to the reporter, to not confirm that you attended or otherwise discuss the event.

The Attorney General Has Made Unfairly Prejudicial Statements for 3 Years



Amy Spitalnick
@amyspitalnick

Follow

Actually, our 3-year investigation uncovered 97 pages worth of wrongdoing:
ag.ny.gov/sites/default/ ...

And courts have already rejected Exxon's "political" argument. A federal judge called Exxon's claims "implausible" and a "wild stretch of logic" ag.ny.gov/sites/default/ ...

1. I identified, researched, investigated & wrote by special interests, public & private.
Dan Clark @DanClarkReports
@exxonmobil responds to @NewYorkStateAG lawsuit filed today:
(complaint linked in previous tweet)
Show this thread

2:20 PM - 24 Oct 2018

4 Retweets 8 Likes



© 2019 Twitter About Help Center Terms Privacy policy Cookies Ads info



Amy Spitalnick
@amyspitalnick

Follow

Actually, our 3-year investigation uncovered 97 pages worth of wrongdoing:

"They know how fast the ice sheets are receding. And yet they have told the public for years that there were no 'competent models,' was the specific term used by an Exxon executive not so long ago, no competent models to project climate patterns, including those in the Arctic. And we know that they paid millions of dollars to support organizations that put out propaganda denying that we can predict or measure the effects of fossil fuel on our climate, or even denying that climate change was happening."

Pawa Colluded with a California Billionaire and Filed Meritless Lawsuits

EXCLUSIVE: Billionaire Democratic donor funding \$10 million campaign to impeach Trump is linked to national lawsuits against oil companies through memo to his environmental nonprofit group

DailyMail.com (Nov. 14, 2017).

To: David Weiskopf, Esq. & Daniel Lashof
From: Matt Pawa, Esq. – Pawa Law Group, P.C.
Date: March 9, 2015
Subject: Potential Global Warming Lawsuit for California to Recover Global Warming Damages

It is worth noting that simply proceeding to the discovery phase of a global warming case would be significant.

Industry has withheld for years the documents regarding their involvement in a campaign of deception and denial. Just as obtaining such documents gave the Tobacco litigation an unstoppable momentum, here too obtaining industry documents would be a remarkable achievement that would advance the case and the cause.

6/4/2019

Judge Dismisses Suit Against Oil Companies Over Climate Change Costs - The New York Times

The New York Times

Judge Dismisses Suit Against Oil Companies Over Climate Change Costs



By John Schwartz

June 25, 2018

A federal judge on Monday threw out a closely watched lawsuit brought by two California cities against fossil fuel companies over the costs of dealing with climate change. The decision is a stinging defeat for the plaintiffs, San Francisco and Oakland, and raises warning flags for other local governments around the United States that have filed similar suits, including New York City.

The judge, William Alsup of Federal District Court in San Francisco, acknowledged the science of global warming and the great risks to the planet, as did the oil and gas companies being sued. But in his ruling, Judge Alsup said the courts were not the proper place to deal with such global issues, and he rejected the legal theory put forth by the cities.

"The problem deserves a solution on a more vast scale than can be supplied by a district judge or jury in a public nuisance case," Judge Alsup wrote in a 16-page opinion.

The cities wanted the defendants — including BP, Chevron, ConocoPhillips, Exxon Mobil and Royal Dutch Shell — to help pay for projects like protecting coastlines from flooding.

But Judge Alsup said the issues would properly be handled by the other two branches of government. "The court will not hand in favor of solutions by the

The New York Times

Judge Dismisses Suit Against Oil Companies Over Climate Change Costs

Conflict of Interest Defense

- I. Official decision-making
- II. Influenced by improper motives (or the appearance of such improper influence), such as by personal, political, or financial interests
- III. That creates a conflict or potential for conflict with impartial administration of law

Young v. United States ex rel. Vuitton et Fils S.A., 481 U.S. 787, 807-10 (1987);
Marshall v. Jerrico, Inc., 446 U.S. 238, 249-50 (1980);
People v. Zimmer, 434 N.Y.S.2d 206, 206 (1980).

Well-Funded Private Interests Improperly Influence the Attorney General's Actions

Employee Secondment Agreement between the Attorney General of the State of New York and the State Energy & Environmental Impact Center at NYU School of Law

Employee Secondment State Energy & Environmental Impact Center

This AGREEMENT between NEW YORK corporation, on behalf Center (the "State Impact Center")

WHEREAS, The State attorney general has national importance;

WHEREAS, As part of program ("Legal Fellow offices of certain state

WHEREAS, The OAG Fellowship Program;

WHEREAS, The OAG accept a Legal Fellow

NOW, THEREFORE, are hereby acknowledged, the State Impact Center and OAG agree to the following:

A. Terms of Service for the Legal Fellowship Program at the OAG:

1. The State as a Legal Fellow

2. The specific agreement provided by the Fellowship described in

3. During the term of control of a Officers Law including the interests, all the requirements from the OAG at the commencement of his or her

UNRECORDED

6. The OAG may terminate the services of the Legal Fellow upon seven (7) days' written notice to the State Impact Center, provided that the OAG will attempt to resolve any performance or other issues involving the Legal Fellow with the Legal Fellow and the State Impact Center before terminating the services of the Legal Fellow. The State Impact Center may terminate this Agreement upon seven (7) days' written notice to the OAG for (1) lack of funding, (2) the OAG's failure to submit reports as required below, or (3) the OAG's failure to assign the Legal Fellow work and responsibility as described in paragraph B.2, below. The State Impact Center shall compensate the Fellow for all time worked prior to termination of this Agreement.

2. The OAG will assign the Legal Fellow substantive work and responsibility matching that of other attorneys in the agency with similar experience and background. The Legal Fellow's substantive work will be primarily on matters relating to clean energy, climate change, and environmental matters of regional and national importance.

3. To the extent practical without divulging confidential information, the OAG will provide periodic reports to the State Impact Center regarding the work of the Legal Fellow. These reports will include a narrative summary of the work of the legal fellow and the contribution that the legal fellow has made to the clean energy, climate change, and environmental initiatives of the OAG. These reports will be provided pursuant to the following schedule:

5. In addition to the formal reporting requirements, the OAG will collaborate with the State Impact Center on public announcements relating to clean energy, climate change, and environmental matters in which the Legal Fellow is engaged.

NEWS EXCLUSIVE

Schneiderman tried to contact eco-tycoon amid Exxon probe

By Isabel Vincent

September 11, 2016 | 6:18am

In March 2016, four months after announcing the Exxon probe, the Democratic AG tried to arrange a phone meeting with hedge-fund mogul Tom Steyer, an environmental activist and Exxon enemy.

"Eric Schneiderman would like to have a call with Tom regarding support for his race for governor . . . regarding Exxon case," reads the March 10 e-mail.

N.Y. Post, Sept. 11, 2016.

There Is No Legal Basis to Seal the Pawa Emails

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Pawa Does Not Avoid Publicity, Absent OAG Direction



"... Exxon and other fossil fuel companies undertook a campaign of deception and denial."

"... the Chairman and CEO of Exxon gave a speech to shareholders in which he implied that the planet was not even warming, in 2013. This was false or misleading."



"Exxon has long been the ringleader of a conspiracy to put its profits ahead of the well-being of the entire planet and this has not gone unnoticed. Exxon has, for many years, and other companies have too, tried to convince the American public that it was safe to buy their products when, in fact, internally they knew that it was not safe to buy their products and that is a form, in my view, of consumer fraud."

The Attorney General's Press Office and the NYU Fellows Possess Responsive Materials That Should Be Disclosed

New York law requires the “full disclosure of all matter material and necessary in the prosecution or defense of an action.”

CPLR § 3101(a)(4).

- ExxonMobil's misconduct defenses are based, among other things, on the Attorney General's (i) improper coordination with special interests to target ExxonMobil, (ii) public statements, and (iii) conflict of interest from seeking and obtaining financial support from third parties, such as the Impact Center.
- The Attorney General has already conceded that the communications of one fellow, Matthew Eisenson, are discoverable.

Eric Schneiderman's Personal Email Account Contains Responsive Material and Should Be Searched

A government official cannot “deprive the citizens of their right to know what his department is up to by the simple expedient of maintaining his departmental emails on an account in another domain.”

Competitive Enter. Inst. v. Office of Sci. & Tech. Policy,
827 F.3d 145, 150 (D.C. Cir. 2016).

